defendant is properly interposed on the ground that there is a misjoinder of the causes of action. Civil Code § 488; *Nichols* v. *Drew*, 94 N. Y. 22. It is no answer that a good cause of action is pleaded against each demurrant. To maintain an action for conspiracy, the plaintiff must allege and prove an agreement or concert of action of the defendants. In the complaint under consideration no facts are alleged showing an agreement or concerted action in pursuance thereof by or between any of the defendants. The only relation shown between any of the acts is that they successively follow each other; but the act of each defendant was separate and distinct from that of each of the others, and they are not so connected as to establish them to have been the result of any agreement or concert of action, and are, therefore, insufficient to constitute a cause of action for conspiracy. This condition is not relieved by the allegations of conspiracy in subdivision 8, which are only the conclusions of the pleader, given without alleging any facts. Therefore the demurrers should have been sustained."

GARNISHMENT—LIABILITY OF EXECUTOR.—The plaintiffs who were cosureties with the defendant upon a promissory note, paid the note and now seek to recover from the defendant by garnisheeing him as executor for a debt owing to him personally from the estate of the deceased for commissions as executor. *Held*, that such a garnishment would lie. *Sanders and Walker* v. *Herndon et al.* (1906), — Ky. —, 93 S. W. Rep. 14.

This question is one which has been but very scantily treated by the courts, only two other cases being found which are directly in point. *Dudley* v. *Falkner*, 45 Ala. 148, holds in accord with the present case on the ground that the executor and the individual are separate and distinct entities in the contemplation of the law. On the other side of the question is the case of *Shepherd* v. *Bridenstine*, 80 Iowa 225, 45 N. W. 746, in which the decision is based largely on the ground that the debt is one due from the garnishee to himself and thus presumed to have been paid. Moreover, if judgment were rendered against the garnishee he might refuse to pay and then the only remedy would be a personal judgment against him which would be of no further utility than the first judgment.

HOMESTEAD—ALIENATION BY WIDOW—ABANDONMENT—LIMITATION OF ACTIONS.—One died seized of land which in his lifetime he occupied as a homestead, leaving surviving him, a widow and adult daughter. The land having been sold subject to the widow's homestead exemption, by order of court, the daughter brought ejectment to recover possession of the land so attempted to be conveyed: *Held*, that the sale was void and operated as an abandonment of the homestead claim and that the statute of limitations had run against the daughter's claim: *Griffin et al.* v. *Dunn et al.* (1906), — Ark. —, 96 S. W. Rep. 190.

A statute enacted that all actions for recovery of land sold under judicial sale should be brought within five years from date of sale. Does this statute apply to the facts of the principal case? Statutes similar to the one in Arkansas have been enacted in several of the states and decisions under them

show that it was the legislative intent that if the action accrued at any time within the period named for the running of the statute, the action must be brought within that time, otherwise it is barred: *Sheik* v. *McElroy,* 20 Pa. St. 31; *Rogers* v. *Johnson,* 67 Pa. St. 48; *Thornton* v. *Jones,* 47 Iowa 397; *Eldridge* v. *Kuel,* 27 Iowa 160; *McCloy* v. *Arnett,* 47 Ark. 445; *Stayton* v. *Helpern,* 50 Ark. 329. The defense contends that the case is ruled by *Kessinger* v. *Wilson,* 53 Ark. 400. A careful examination of the opinion in that case shows that the statute received the same construction there that the majority opinion have given it in the principal case. The action there did not accrue until ten years after date of sale and it was properly held that the five year statute was not applicable. The statute of limitations does not run against heirs for the recovery of the homestead while the widow is in possession, and an attempt by her to alienate is ineffectual and operates as an abandonment. *Garibaldi* v. *Jones,* 48 Ark. 230; *Morton's Ex'rs* v. *Morton's Ex'rs,* 112 Ky. 706; *Norton* v. *Norton,* 94 Ala. 481; *Wallis* v. *Doe,* 2 Smedes and M. Miss. 220. The homestead right of exemption of the children is superior to right of tenant in dower conveyed to a third person: *Loeb* v. *McMahon,* 89 Ill. 487; *Hannon* v. *Sommer,* 10 Fed. Rep. 601. The widow's right to occupy the dwelling house until dower is assigned her is not an estate in land but a personal privilege. Her failure to exercise this right does not delay the action in favor of the children; *Johnson* v. *Turner,* 29 Ark. 290. The decision reached by the majority of the court is sustained by a long line of decisions in Arkansas and other states. The daughter was of full age at the time the homestead was abandoned and the statute started to run at that time, and was consequently barred when this action was brought.

INSURANCE—INTEREST OF OWNER IN PROPERTY—SOLE AND UNCONDITIONAL OWNER.—A fire insurance policy provided that the insured must be the sole and unconditional owner. Plaintiff was occupying the insured premises under a conveyance of title in fee simple. The conveyance recited a cash payment and four deferred annual payments. *Held,* that the plaintiff was the owner within the terms of the policy. *President, Etc., of Insurance Co. of North America* v. *Pitts* (1906), — Miss. —, 41 So. Rep. 5.

It is necessary that the insured have some interest in the property insured. This was declared in England by Stat. of 19 George II c. 37, and the doctrine has been followed in this country even though the statute has not been recognized as an authority. While requiring that the insured must show an insurable interest the courts have been liberal in the interpretation of the clause. Insured must not mislead the insurer and where the provisions are similar to the policy in the principal case the person having the property insured must show some claim to the fee. *Insurance Co.* v. *Bohn,* 65 Fed. 165. Where property is purchased under a contract that the title shall remain in the vendor, the vendee has not the sole and unconditional ownership within the provisions of the policy. *Cuthbertson* v. *Insurance Co.,* 96 N. C. 480. This case may be distinguished from the principal case on the ground that at the time the policy was issued the insured did not have the fee. In the case under discussion the person insuring had the fee although the contract was